

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

ROBERT JOHN GATHRITE,

Defendant-Appellant.

UNPUBLISHED

April 2, 2020

No. 343753

Wayne Circuit Court

LC No. 17-007100-01-FC

AFTER REMAND

Before: RONAYNE KRAUSE, P.J., and METER and GLEICHER, JJ.

PER CURIAM.

We remanded this matter to the trial court for a determination whether, in relation to offense variable (OV) 13, there was “a preponderance of the evidence that defendant’s conduct related to the battery charges in Florida did, in fact, constitute a battery on an officer” *People v Gathrite*, unpublished per curiam opinion of the Court of Appeals, issued December 5, 2019 (Docket No. 343753), p 5. On remand, the trial court held an evidentiary hearing to determine whether there was a sufficient factual basis to support the scoring of 25 points for OV 13. At the evidentiary hearing, defense counsel stated that he reviewed documents from the Florida court, and that such documents established there was a preponderance of the evidence to support the 25-point score for OV 13. The trial court entered an order denying defendant’s motion for resentencing because there was a preponderance of the evidence to support the assessment of 25 points for OV 13. We have reviewed the evidentiary hearing transcript, and, mindful of defense counsel’s admission that there was factual support for the scoring of OV 13, find no error in the trial court’s finding of fact and conclusion of law.

Affirmed.

/s/ Amy Ronayne Krause

/s/ Patrick M. Meter

/s/ Elizabeth L. Gleicher